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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/712,888	11/12/2003	Daniel G. Dadourian	NCPT-001	2298
23410	7590	08/19/2009		
Vista IP Law Group LLP 2040 MAIN STREET, 9TH FLOOR IRVINE, CA 92614			EXAMINER	
			BACHMAN, LINDSEY MICHELLE	
			ART UNIT	PAPER NUMBER
			3734	
			MAIL DATE	DELIVERY MODE
			08/19/2009	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/712,888

**Applicant(s)**

DADOURIAN, DANIEL G.

**Examiner**

LINDSEY BACHMAN

**Art Unit**

3734

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 May 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 and 23-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 23-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

This Office Action is in response to Applicant's amendment filed 19 May 2009.

### ***Response to Arguments***

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1, 7-10, 13, 15, 29-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Tu et al. (US Patent 6,228,109).**

Claims 1, 7, 8, 9, 10, 13, 15, 29, 30, 31: Tu'109 shows a sheath (1) with a lumen and an ostial locator wire (12) that is slidably disposed within the sheath and assumes an expanded configuration when extended from the distal end of the sheath and assumes a collapsed configuration with retracted back into the sheath (Figures 3 and 4). In the expanded configuration, the wire surrounds element 15 (see Figure 4), so the device is capable of surrounding an interventional device.

Claim 15: Tu'109 teaches that the wire (12) can be made of gold, which is a well known radiopaque material (column 8, lines 13-16).

***Claim Rejections - 35 USC § 103***

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

**Claims 1-14, 23-31, 33 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Taimisto (US Patent 6,923,808) in view of Falkenberg (US Patent 7,195,628) in view of Hall et al. (US Patent 6,652,217).**

Claim 1, 7, 8, 9, 10, 11, 12, 14, 23, 25, 26, 27, 29, 30, 31, 33, 34: Taimisto'808 teaches a sheath (26) and an ostial locator slidably disposed within the lumen of the sheath having a retracted configuration (Figure 6a) and an expanded configuration (Figures 6b, 6c). Taimisto'808 does not teach a stent deployable within an ostium.

Falkenberg'628 teaches that it is old and well known to perform an ablation procedure at an ostium in the heart in order to treat atrial fibrillation. Falkenberg'628 teaches that it is desirable to place a stent in the vessel after the ablation procedure in order to retain patency of the vessel (column 4, lines 44-51; column 8, lines 5-15). In light of this, it would be obvious to modify the device of Taimisto'808 with a balloon expanded stent, as taught by Falkenberg'628 in order to aid in keeping a vessel open after an ablation procedure.

Although Taimisto'808 in view of Falkenberg'628 does not specifically teach that the wire surrounds the stent, Hall'517 teaches a similar device that contains a centering element that is a stent (Figure 14) in combination with an ablation element (243, 244;

Figure 16) (column 8, lines 35-62; especially lines 55-57). The stent is passed through the ablation element during delivery so the ablation element surrounds the stent. In light of this teaching by Hall'517 and the teaching from Falkenberg'628 that is desirable to deploy a stent after an ablation procedure in order to keep the vessel open, it would be obvious to provide an ablation device that is collinear with and surrounds a stent.

Claim 24: Falkenberg'628 teaches the use of a balloon expandable stent (Figure 4).

Claim 2-6, 28: Taimisto'808 in view of Falkenberg'628 do not teach a stent delivery catheter attached to the sheath, however, Falkenberg'628 teaches that it is desirable to perform the ablation procedure and stent delivery in the same procedure (column 5, lines 25-30). In light of this, it would be obvious to attach a stent delivery catheter of Falkenberg'628 to the ablation device of Taimisto'808, so that two procedures could be performed at the same time in order to minimize the risk of vessel collapse. One of ordinary skill in the art would be motivated to try different fastening techniques, as these are known options within his or her technical grasp. If this leads to the anticipated success, it is likely that product [was] not of innovation but of ordinary skill and common sense.

**Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tu'109, as applied to claim 29 above, and further in view of Ravenscroft (US Patent 5,702,418).**

Tu'109 teaches the limitations of Claim 32 except for a stop that limits the distal end from being over extended.

Stops that prevent overextension of devices into the body are old and well known in the art, as for example, the stop (26) taught by Ravenscroft stops the distal end of the element 15 from overextending into the body. It would have been obvious to one of ordinary skill in the art to modify the device taught by Tu'109 with a stop in order to prevent the distal end from over extending into the body and possibly getting lost or left behind causing harm to the patient.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **LINDSEY BACHMAN** whose telephone number is

(571)272-6208. The examiner can normally be reached on Monday to Thursday 7:30 am to 5 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Todd Manahan can be reached on 571-272-4713. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/L. B./  
Examiner, Art Unit 3734

***/Todd E Manahan/  
Supervisory Patent Examiner, Art Unit 3734***